

**Gary Odom**

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**UNITED STATES DISTRICT COURT**

**DISTRICT OF OREGON**

**PORTLAND DIVISION**

MICROSOFT CORPORATION

Counterclaim Plaintiff,

vs.

GARY ODOM

Counterclaim Defendant.

Case No. 3:09-CV-230-MO

**COUNTERCLAIM DEFENDANT GARY  
ODOM'S SUMMARY JUDGMENT  
MOTION FOR UNFETTERED CLAIMS  
FOR 7,363,592**

**Oral Argument Requested**

**COUNTERCLAIM DEFENDANT'S SUMMARY JUDGMENT  
MOTION FOR UNFETTERED CLAIMS FOR 7,363,592  
CASE NO. 3:09-CV-230-MO**

GARY ODOM  
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**TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

Counterclaim Defendant Gary Odom respectfully motions the Court, pursuant to Rule 56 of the Federal Rules of Civil Procedure, for summary judgment as a matter of law, that the claims of 7,363,592 are not subject prosecution estoppel, and thereby entitled to application of the doctrine of equivalents.

Further, in consideration of a more fully developed record, Counterclaim Defendant respectfully motions the Court to reconsider its September 21, 2009 adoption of certain claim constructions (Doc. No. 90), particularly the terms “toolbar”, “tool group” and “tool.”

Counterclaim Defendant respectfully submits this motion with supporting Memorandum, a Concise Statement of Facts, and Exhibits, concurrently filed herewith, and incorporation by reference all antecedent argument by Counterclaim Defendant regarding claim construction. Further pursuance are in the pleadings, records, and files in this action, any further responsive papers that may be filed, and further evidence and argument as may properly be presented by documentation and at any hearing.

Dated: May 3, 2010



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